

SUPPLEMENTARY RETURN

[246a]

To an Order of the House of Commons, dated 2nd March, 1914, giving the following information, as far as may be available, respecting the constitution of Upper Chambers or Senates within the British Empire and in foreign countries, and especially such information in respect of the self-governing Dominions and of foreign countries possessing a federal system of Government:—

1. As to the method of appointment, whether by Executive authority or by election by the people, or otherwise.
2. As to the term of appointment, whether for life or for a term of years, or otherwise.
3. As to a re-appointment or re-election, and generally as to the filling of vacancies occasioned by death or otherwise.
4. As to qualifications, whether by age, residence, possession of real or personal property or otherwise.
5. As to limitation of the membership, and as to the numerical relation of the membership to that of the Lower House.
6. As to provisions for dissolution, appeal to the electorate, conferences or additional appointments in case of disagreement between the Upper and Lower Houses.
7. As to the operation of the various systems in the several Dominions and countries mentioned, and in what respect defects or difficulties have made themselves manifest.
8. All other relevant information respecting the constitution and status of such Upper Chambers.

LOUIS P. PELLETIER,
for Secretary of State.

June 10, 1914.

THE SECOND CHAMBER.

An Abstract showing certain aspects of the constitution of various Upper Houses of the Legislature in the British Empire and foreign countries.

GREAT BRITAIN.

(Authorities consulted: Lowell, *The Government of England*, new edition, 1912; Anson, *Law and Custom of the Constitution*, 4th edition, 1911; Ogg, *The Government of Europe*; *The Parliament Act*, 1911, statutes 1-2 Geo. V, c. 13.)

Number.—The number of the House of Lords is not limited by law. To-day it numbers about 650.

Method of Appointment and Election—Tenure—Qualifications.—The House of Lords comprises at least five distinct groups:—

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(1) *Peers with hereditary seats.*—These are the peers of England created before the union with Scotland in 1707; the peers of Great Britain created between that date and the union with Ireland in 1801; and the peers of the United Kingdom created since. The Crown, that is, the Ministry of the day, has unlimited power to create hereditary peerages, and this is now the only channel for an increase in the membership of the House.

(2) *The Representative Peers of Scotland.*—Under the Act of Union of 1707, when a new Parliament is summoned, the whole body of Scottish peers elect sixteen of their number to sit as their representatives in the House of Lords. Their tenure expires with the termination of a Parliament.

(3) *The Representative Peers of Ireland.*—Under the Act of Union of 1800 twenty-eight of the Irish peerage are elected by the whole body as representatives and each representative peer enjoys his right as a Lord of Parliament for the term of his life.

(4) *The Lords Spiritual.*—The number of these is restricted under statutory regulation to twenty-six. Five English ecclesiastics are entitled by statute invariably to seats—the Archbishops of Canterbury and York and the Bishops of London, Durham and Winchester. Among the remaining bishops, seats are allowed to twenty-one in the order of seniority. The Lords Spiritual retain their seats in virtue of, and only during, tenure of their several Sees.

Appointment to the ecclesiastical office is controlled by the Crown, that is, by the Ministry of the day. There are no Scottish or Irish Lords Spiritual.

(5) *The Lords of Appeal in Ordinary.*—These number four and are created by virtue of high legal qualification, primarily to assist in the judicial function of the House of Lords. They are also entitled to the dignity of Baron for life and to a writ of summons to attend and vote as other peers. This right lasts for life although the discharge of judicial duties may have ceased.

Infants, aliens, bankrupts, and persons under sentence for grave offences, are incapable of sitting in the House of Lords. On the other hand, a peer cannot renounce his inheritance of rank.

Adjustment of Disagreements between the Houses—The Parliament Act, 1911:—

(a) *As to Money Bills.*—The Act (1-2 Geo. V, c. 13) provides in substance that if a Money Bill, having been passed by the House of Commons and sent to the House of Lords at least a month before the end of the session, is not passed by that House without amendment within one month it shall become an Act on the Royal Assent being signified. A Money Bill is defined as a public Bill which in the opinion of the Speaker deals only with the imposition, repeal or regulation of taxation; with the imposition or repeal of charges on the Consolidated Fund or on money provided by Parliament; with supply; with the appropriation, receipt, issue or audit of public money; with the raising, guarantee or payment of a loan; or with matters incidental to these subjects. Provisions dealing with the taxation, money or loans of local authorities for local purposes are expressly excluded.

(b) *As to Other Bills.*—In regard to other bills the Act provides that if any public Bill (other than a Money Bill or one to extend the term of Parliament beyond five years) is passed by the House of Commons in three successive sessions (whether of the same Parliament or not) and is not passed by the House of Lords without amendment or with such amendments only as the Commons accept, it shall become an Act on the Royal assent being signified; provided two years have elapsed between the second reading in the House of

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Commons at the first session and the final passage by that House in the third session. The Bill must be passed by the Commons each time in identical form, save for the alterations made necessary by the lapse of time, and for amendments agreed to by both Houses. The certificate of the Speaker that the provisions of the Act have been complied with is made conclusive. The Act does not affect legislation by private Bill or provisional order. It provides special words of enactment for legislation passed under its provisions.

(c) This Act does not purport to represent a final scheme for the reform of the relations between the two Houses; for its preamble recites that "it is intended to substitute for the House of Lords as it at present exists a Second Chamber constituted on a popular instead of hereditary basis, but such substitution cannot be immediately brought into operation," and further that "provision will require hereafter to be made by Parliament, in a measure affecting such substitution, for limiting and defining the powers of the new Second Chamber, but it is expedient to make such provision as in this Act appears for restricting the existing powers of the House of Lords." In other words, the Parliament Act touches only the powers of the Second Chamber; it does not affect the composition or method of appointment, and it recognizes that when a newly-constituted Second Chamber has been provided, other rules than are now provided may be necessary to define the powers of the new House and the relations between the two Houses. And the Government responsible for the Act expressly emphasized its temporary character throughout the debate. Mr. Asquith, on February 28, 1910, in a careful statement respecting the preliminary resolutions then about to be introduced, said: "They will affirm the necessity for excluding the House of Lords altogether from the domain of finance. They will ask this House to declare that in the sphere of legislation the power of veto, at present possessed by the House of Lords, should be so limited in its exercise as to secure the predominance of the deliberate and considered will of this House within the lifetime of a single Parliament. Further, it will be made plain that *these constitutional changes are without prejudice to, and contemplate in a subsequent year, the substitution in our Second Chamber of a democratic for an hereditary basis.*" (Hansard, 1910, vol. 14, p. 595.)

This was later repeated both in exact terms (Hansard, 1910, vol. 15, p. 959) and in substance: "We put them forward to deal with the emergency which confronts us, not as purporting to be a full or adequate solution of the whole problem, or as exhausting the policy of the Government." (Hansard, 1910, vol. 15, p. 1180.) See also Hansard, 1911, vol. 21, p. 1752. As to what was conceived as the proper character or attributes of a Second Chamber should be, Mr. Asquith merely indicated his views. (Hansard, 1910, vol. 15, pp. 1165-6.)

QUEBEC.

(See Bourinot, Manual of Constitutional History of Canada, p. 65; British North America Act, secs. 23, 72-79).

Number.—The Legislative Council numbers twenty-four members.

Method of appointment.—Members are appointed by the Lieutenant-Governor in the King's name, and represent the same electoral districts from which senators are chosen.

Term of office.—The term is for life.

Qualifications.—The qualifications are the same as those of the senators from the province and vacancies arise for the same reasons as in the case of senators.

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Other provisions.—The Governor appoints a Speaker from among the members. Ten constitute a quorum. The Council has legislative functions co-ordinate with those of the Assembly except with regard to Money Bills. Its constitution may be amended by the Legislature of the province. There is no provision for the adjustment of differences between the two Houses.

NOVA SCOTIA.

(Authorities: Bourinot, *Manual of Constitutional History of Canada*, p. 69; and "The Constitution of the Legislative Council of Nova Scotia"; Transactions of the Royal Society of Canada, new series, Vol. 2; Revised Statutes of Nova Scotia, 1900, c. 2; British North America Act).

Number.—The Legislative Council numbers twenty-one ordinarily, though it varies to eighteen.

Method of appointment.—Members are appointed by the Lieutenant-Governor in the name of the Crown.

Term of office.—The term is for life.

Qualifications.—There is a property qualification. Seats are vacated for bankruptcy or insolvency, conviction of crime, or for absence for two sessions without the consent of the Governor in Council.

The Legislative Council has legislative functions co-ordinate with those of the Assembly except with regard to Money Bills.

The constitution of Nova Scotia, and therefore of the Council, is considered "as derived from terms of the Royal Commissions to the Governors and Lieutenant Governors, and from the instructions accompanying the same, moulded from time to time by despatches from Secretaries of State, conveying the will of the Sovereign, and by Acts of the Local Legislature, assented to by the Crown; the whole to some extent interpreted by uniform usage and custom in the colony" (memorandum by Governor Archibald in answer to an address of Parliament, Can. Sess. p. 1883, No. 70, pp. 8, 39) After 1867 the Council remained constituted as before, but subject to the power of amendment vested by the British North America Act in the Legislature of the province.

There is no provision for the adjustment of differences between the two Houses; and it would seem that the number of the Legislative Council is limited and that therefore disagreements cannot be overcome by appointments to the Council. (See Transactions of Royal Society of Canada, new series, vol. 2, article on "The Constitution of the Legislative Council of Nova Scotia.")

NEWFOUNDLAND.

(See Letters Patent of March 28, 1876, to the Governor of Newfoundland; Instructions of same date; to be found in Consolidated Statutes of Newfoundland, 2nd series, 1892, pp. 1107 *et seq.*)

Number.—The number of the Legislative Council is not fixed, though the total number for the time being resident within the colony may not be raised *by means of appointments by the Governor* (see below) to more than fifteen. The number now stands at twenty-four.

Method of appointment.—Members are nominated and appointed from time to time by the King under the Sign Manual and Signet, or provisionally by the Governor subject to the pleasure of the Crown and to the restriction above noted.

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Term of office.—Members hold office during the King's pleasure and are removable by warrant issued by the King on advice of the Privy Council. This is now understood to mean that members hold office at the will of the Government of Newfoundland.

Other provisions.—The Governor appoints from time to time a President of the Council from among the members. Five constitute a quorum. There is by rule of the House of Assembly the usual distinction of powers between the two Houses with respect to Money Bills.

Adjustment of disagreements between the Houses.—There is no provision of law for the adjustment of disagreements between the two Houses; but as seen there is no limitation on the power of the Crown to add to the number of the Legislative Council.

NEW ZEALAND.

(See New Zealand Constitution Act, 1852, 15 and 16 Vict., c. 72; Legislative Council Act, 1891; Legislative Council Act, 1908.)

Number.—The number of the Legislative Council may not be less than 10; otherwise it is unlimited. At present the number is 42. (See New Zealand Year Book, 1913.) It is said by one authority that the members represent certain provincial districts (Analysis of the System of Government throughout the British Empire, Macmillan & Co., p. 90). There seems to be no provision of law to this effect.

Method of appointment.—Members are appointed by the Governor from time to time.

Term of office.—The term is seven years, but a member may be reappointed. There are a few remaining life members appointed before the term of office was changed by the Act of 1891. (See Douglas, The Dominion of New Zealand.) It is interesting to note that that Act, in order to induce life members to resign, made a standing offer of a free railway pass throughout the Dominion and the use of the Parliamentary Library, both for life.

Other provisions.—As to qualification, a member must be 21 years old, a British subject, free from taint of bankruptcy, treason, infamous offence and public defalcation, and may not be the holder of certain named public offices. There is the usual distinction of powers between the two Houses with respect to Money Bills.

Adjustment of disagreements between the Houses.—While there is no legislative provision for the adjustment of disagreements between the two Houses, there is no limitation as seen, on the power of appointment to the Legislative Council.

Proposed reform.—The present Government proposes to reform the Legislative Council. A Bill to that end has already been put forward. Up till now the majority in the Council itself have been against it and it has twice been rejected.

The scheme generally is a division of the Dominion into four large electorates to choose members under the Tasmanian system of proportional representation. Two of the electorates are to choose eleven members each, and the other two nine members each. The suffrage will be universal and the elected Councillors will sit for six years. The scheme cannot be in full operation for five or six years, as time is allowed for the gradual disappearance of the present nominee members. The Bill contains the English provision for passing Money Bills over the Upper Chamber's head if necessary, and the Australian provision for "suggested" amendments and for dealing with deadlocks.

AUSTRALIA.

(References are to the Commonwealth of Australia Constitution Act, July 9, 1900, 63 and 64 Vict., c. 12.)

Number.—There are six senators from each original state (sec. 7).

Method of Election.—"Senators are directly chosen by the people of the State . . . as one electorate" (except that Queensland is entitled to divide itself into senatorial districts), sec. 7.

Term of Office.—Senators are elected for six years. One-half retire every three years. (Sec. 7; sec. 13, as amended by the Constitution Alteration, Senate Elections, 1906, Law 1 of 1907.)

Qualifications.—These are the same as for members of the House of Representatives (sec. 16); that is, a member must be a British subject, 21 years old, an elector, and a resident for three years within the Commonwealth (sec. 34).

Qualifications of Electors.—These are the same as in the case of the Lower House (sec. 8).

Vacancies.—Vacancies are filled by the Houses of Parliament of the State sitting together, the person so chosen holding office till the end of the term, unless a regular general election (either for the House or Senate) occurs in the meantime, in which event a successor is chosen in the usual manner to hold till the end of the term. If the State Parliament is not in session the Governor in Council of the State may choose a successor to hold until the expiration of fourteen days after the beginning of the next session or until the election of a successor as above, whichever happens first (sec. 15).

Regulation of method.—The method of election and number may be changed by the Federal Parliament; but no original state may be deprived of equality nor have less than six senators; and subject to the foregoing, the states may regulate the method, time and place (secs. 7, 9).

Powers.—There is the usual distinction of powers between the two Houses with respect to Money Bills (sec. 53).

Adjustment of Disagreements between the Houses.—Section 57 provides for the adjustment of disagreements between the two Houses. If the House of Representatives passes any Bill and the Senate rejects it or fails to pass it, or passes it with amendments to which the House will not agree, and if after three months the House in the same or next session again passes it, with or without amendments made or suggested by the Senate, and the Senate rejects or fails to pass it or passes it with amendments unacceptable to the House, the Governor General may dissolve the Senate and House simultaneously. If after such dissolution the House again passes the Bill with or without any amendments made or suggested by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments unacceptable to the House, the Governor General may convene a joint sitting of the members of the Senate and House. The members at the joint sitting may deliberate upon the Bill as last proposed by the House and upon any amendments which have been the cause of difference, and the Bill, with or without amendments, may be carried by an absolute majority of the total number of members of the Senate and House, and shall then be taken to have passed both Houses.

There is special provision for amendments to the constitution. Amendments proposed by an absolute majority of each House shall be submitted to the electors, or those twice proposed by one House with an interval of three months, though disagreed to by the other House, may be submitted to the electors by the Governor General. It must be approved by a majority of the electors in each of a majority of the states, and by a majority of all the electors voting (sec. 128).

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SOUTH AFRICA.

(References are to the South Africa Act, 1909, 9 Ed. VII, c. 9).

Number.—There are eight senators at large and eight from each original province. (Sec. 24.)

Method of appointment and election.—The senators at large are nominated by the Governor General in Council; the others were elected for each province before the establishment of the Union by the two Houses of the Colony sitting together (sec. 24). After ten years from the establishment of the Union, if Parliament does not make other provision, the method as to nominated senators is to remain unchanged, while the eight senators from each province are to be elected by the Provincial Council and House of Assembly sitting together and are to hold their seats for ten years unless the Senate is sooner dissolved. (Sec. 25.)

Term of office.—The term is ten years. (Sec. 24.)

Qualification.—A senator must be 30 years old, an elector, a resident for five years within the limits of the Union, a British subject of European descent, and in addition an elected senator must own immovable property within the Union to the value of £500 (sec. 26). One-half of the nominated senators must be selected on the ground mainly of their thorough acquaintance, by reason of their official experience, with the reasonable wants and wishes of the coloured races in South Africa. ((Sec. 24.)

Vacancies.—In the case of a nominated senator the Governor General in Council nominates a successor who holds for ten years. In the case of an elected senator the vacancy is filled by the Provincial Council, though after ten years from the establishment of the Union, by the Provincial Council and House of Assembly sitting together, and the successor holds simply for the balance of the term. (Secs. 24, 25.)

Regulation of Method of Election.—After ten years from the establishment of the Union, Parliament may provide for the manner in which the Senate may be constituted. (sec. 25.)

Dissolution.—The Governor General may dissolve the Senate and House of Assembly or the House alone, though the Senate may not be dissolved within ten years of the establishment of the Union and dissolution cannot affect nominated Senators. (sec. 20.)

Adjustment of Disagreement between the Houses.—The provision for the contingency of disagreement between the House of Assembly and Senate is section 63, and it reads as follows—

“If the House of Assembly passes any Bill and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, and if the House of Assembly in the next session again passes the Bill with or without any amendments which have been made or agreed to by the Senate and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, the Governor General may during that session convene a joint sitting of the members of the Senate and House of Assembly. The members present at any such joint sitting may deliberate and shall vote together upon the Bill as last proposed by the House of Assembly and upon amendments, if any, which have been made therein by one House of Parliament and not agreed to by the other; and any such amendments which are affirmed by a majority of the total number of members of the Senate and House of Assembly present at such sitting shall be taken to have been carried, and if the Bill with the amendments, if any, is affirmed by a majority of the

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members of the Senate and House of Assembly present at such sitting, it shall be taken to have been duly passed by both Houses of Parliament; Provided that, if the Senate shall reject or fail to pass any Bill dealing with the appropriation of revenue or moneys for the public service, such joint sitting may be convened during the same session in which the Senate so rejects or fails to pass such Bill."

UNITED STATES.

(References are to the Constitution of the United States).

Number.—Two senators are chosen from each state. (Art. 1, sec. 3, par. 1; 17th amendment.)

Method of Election.—Formerly chosen by the State Legislatures, senators are now elected directly by the people of their respective states. (17th amendment, ratified May, 1913.)

Term of Office.—The term is six years. One-third of the senators are retired and their successors chosen every two years. (Art. 1, sec. 3, par. 1-2; 17th amendment.)

Qualification.—A senator must be 30 years old, a citizen of the United States for nine years, and an inhabitant, when elected, of the state for which he is chosen. (Art. 1, sec. 3, par. 3.)

Qualification of electors.—The electors of senators in each state must have the qualifications requisite for electors of the most numerous branch of the State Legislature. (17th amendment.)

Vacancies.—These are filled by popular election, though the legislature of any state may empower its executive to make a temporary appointment until the people fill the vacancy by election as the legislature may direct. (17th amendment.)

Regulation.—The times, places and manner of election are prescribed by the various State Legislatures, but Congress may at any time alter such regulations except as to the places of election. (Art. 1, sec. 4, par. 1.)

Adjustment of Disagreements between the Houses.—There is no provision of law for the adjustment of disagreements between the House of Representatives and the Senate. In practice, however, such disagreements are referred by each House to a conference committee, appointed specially for the Bill in hand from among its own members. The two committees meet informally on the Bill. While in theory each is usually supposed to act under instructions from its own House, yet in practice they frequently report back what amounts to a new Bill, and this compromise is often passed by both Houses. It should be borne in mind that if the Senate disagrees with the House it is merely a disagreement between two Legislative Chambers and does not concern the Executive directly or at all necessarily, whereas under the parliamentary system a deadlock is in reality a matter between the Upper House and the Government of the day.

FRANCE.

(References are to the Law of Dec. 9, 1884—to be found in Dodd, *Modern Constitutions*, vol. 1, p. 310 *et seq.*)

Number.—The Senate consists of 300 members (art. 1); the number from each department or colony varying from ten to one (art. 2).

Method of Election.—Senators are elected by an electoral college meeting at the capital of the department or colony concerned and composed of (1) the deputies from

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the department, (2) the general councillors of the department, (3) the councillors of the arrondissement (a subdivision of the department), and (4) delegates elected by each municipal council from among the voters of the commune (a smaller subdivision of the arrondissement). The number of delegates from each municipal council is according to the number of the council, varying from a council of ten electing one delegate to a council of thirty-six electing twenty-four, while the city of Paris elects thirty (art. 6.). The mode of election is that of *scrutin de liste*, that is, each elector has as many votes as there are senators to be elected, but can give only one vote to any candidate.

Term of Office.—Senators are chosen for nine years. One-third are retired and their successors chosen every three years. (Art. 7.)

Qualifications.—A senator must be a French citizen, 40 years of age, enjoy civil and political rights, and have complied with the law regarding military service. (Art. 4; see also law of July 20, 1895.)

One writer has the following to say of the French Senate:—

“Few of the life members survive to-day. When they have disappeared the French Senate will be a compact body of three hundred men apportioned among the departments in approximate accordance with population, and chosen in all cases by bodies of electors all of whom have themselves been elected directly by the people. . . . From having long been viewed by republicans with suspicion, the Senate has become to be regarded by Frenchmen generally as perhaps the most perfect work of the Republic (citing J. C. Bracq, *France under the Republic*, New York, 1910, p. 8.). In these days its membership is recruited very largely from the deputies, so that it includes not only many men of distinction in letters and science but an unusual proportion of experienced debaters and parliamentarians. A leading American authority has said that it is composed of as impressive a body of men as can be found in any legislative chamber the world over” (citing Lowell, *Governments and Parties*, vol. 1, p. 22); from Ogg, *The Governments of Europe*, pp. 316-317).

Adjustment of Disagreements between the Houses.—There is no constitutional provision for the case of disagreements between the two Houses of Parliament. By their respective regulations a mixed committee of both Houses may be appointed in such cases to propose terms of agreement or compromise.

GERMANY.

Number.—The number of delegates to the Bundesrath varies. By the Imperial constitution the fifty-eight votes to which the twenty-five states of the federation are entitled are apportioned among the states. This is not completely according to population, wealth, etc., but is rather arbitrary. Thus, Prussia, with two-thirds of the population has a scant one-third of the votes (Ogg *Governments of Europe*, pp. 217-18; art. 6 of Imperial constitution; Dodd, *Modern Constitutions*, p. 328). Each state is authorized, though not required, to send to the Bundesrath a number of delegates equal to the number of votes to which the state is entitled. (Art. 6.)

Method of Appointment.—The delegates are appointed by the princes of the monarchical states and by the Senates of the free cities. (Art. 6.)

Term of Office.—Delegates are appointed fresh for each session, and they may be recalled or replaced at any time.

Ogg, in his book on the Governments of Europe, points out that the German Bundesrath “is not ‘an Upper House’ nor even in the ordinary sense a deliber-

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ative chamber at all. On the contrary it is the central institution of the whole Imperial system and as such it is possessed of a broad combination of functions which are not only legislative but administrative, consultative, judicial, and diplomatic."

"Legally, and to a large extent, practically, the status of a delegate is that not of a senator but of a diplomat. They are very commonly officials, frequently ministers, of the states which they represent."

The members speak and act and vote regularly not at their own discretion but under specific instructions of the governing authorities by whom they are accredited. Only rarely do their instructions allow them any considerable measure of independence.

The votes cast are not votes of the individual members but of the states, and they are cast indivisible blocks by the delegation of the state regardless of the number of members in attendance. A single delegate may cast the entire quota of votes to which his state is entitled.

The Bundesrath may be convened by the Emperor at any time and there must be at least one session per year.

The work of the Bundesrath consists largely in the preparation of business for the Reichstag. Usually all bills originate in the Bundesrath and, strictly speaking, it is that body which makes the law, with merely the assent of the Reichstag.

The Bundesrath has (1) Executive functions: it takes action on administrative provisions for carrying out laws; issues ordinances; exercises control with the Emperor over the declaration of war and making of treaties; with the consent of the Emperor it may dissolve the Reichstag and its members may be heard on the floor of the Reichstag; it prepares the annual budget and participates in appointment of officials; (2) Judicial powers: it sits as a Supreme Court of Appeal in certain cases from state tribunals; is the court of last resort for disputes between the Imperial Government and the states, or between two states in certain cases. (Ogg, pp. 217-223.)

ALSACE-LORRAINE.

(References are to the constitution of Alsace-Lorraine of May 31, 1911—in *Revue du Droit Public*, 1911, vol. 28, pp. 465-471; to *Annual Register*, 1911; and to Ogg, *The Governments of Europe*.)

Number.—There are thirty-six members.

Method of Election and Appointment.—One-half are appointed ex-officio or as the nominees of public bodies; the other half are nominated by the Emperor. The first-mentioned class is constituted as follows: The Roman Catholic Bishops of Strassburg and Metz; the Presidents of the controlling bodies of the two branches of the Evangelical Church; the President of the highest provincial court; a professor of the University of Strassburg, chosen by the professors of the University; a representative of the Jewish faith, chosen by their body; four members elected by the municipal councils of Strassburg, Metz, Colmar and Mulhausen from among their number; three by Chambers of Commerce; three by the Agricultural Council; and one by the Strassburg Handwerkskammer, or League of Guilds. The second class, who are not to exceed in number the first, are nominated by the Emperor upon the advice of the (Imperial) Federal Council. (Const., sec. 6; *Annual Register*, 1911, p. 329.)

Term of Office.—Membership in the Upper House of the Diet expires in five years, or upon a dissolution of the Upper House. (Const., sec. 6; *Annual Register*, 1911, p. 329.)

Qualifications.—In addition to the qualifications indicated above, all members must reside in Alsace-Lorraine and be not less than 30 years of age. (Const., sec. 6; *Annual Register*, 1911, p. 329.)

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All laws require the assent of the Emperor and the two Chambers of the Diet, and the budget of the year must be laid first before the Lower Chamber and must be accepted or rejected in its entirety by the upper one. (Const., sec. 5.) The Emperor has the right to summon, to adjourn, and to dissolve, the chambers simultaneously. (Const., sec. 11; Ogg, p. 286.)

SWITZERLAND.

(References are to the constitution of the Swiss Federation of May 29, 1874; Dodd, *Modern Constitutions*; Ogg, *The Governments of Europe*.)

Number The Council of States consists of forty-four members. Each canton appoints two representatives; each half-canton in the case of divided cantons choosing one. (Const., art. 80; Dodd, vol. 2, p. 278.)

Method of Election; Term of Office; Qualifications; Qualification of Electors; Vacancies; Regulation of Method.—For these matters as well as for the remuneration of members of the Council of the States there is no provision either in the constitution or in federal law. They are left wholly to the determination of the individual cantons. There is, in fact, no uniformity of law in these respects; in some cantons members are elected by popular vote; in others by the legislative assembly; in some they are chosen for one year; in others for two; in still others for three.

Adjustment of Disagreements between the Houses.—Cases of disagreement are referred to a joint committee of both Houses, but if the conference does not agree, or if either House does not accept the proposal made, the measure has to be abandoned.

It should also be noted that the two Houses, representing respectively the federal and national principles, are nominally co-ordinate in power; that Switzerland does not have the parliamentary system; and that the "initiative" and "referendum" are part of the constitutional system, possibly affecting the relations between the Houses.

AUSTRIA-HUNGARY.

For the combined empire-kingdom there is a joint ministry dealing simply with foreign affairs, war, and finance and a joint meeting in one body of two "delegations," one from the Parliament of Austria; the other from that of Hungary. Thus for Austria-Hungary there is no bicameral legislature nor in reality a legislature at all. But each member of the dual monarchy has its own legislative system.

AUSTRIA.

Number.—The Herrenhaus, or House of Lords, is variable in number. At the close of 1910 there were 266 (Ogg, *The Governments of Europe*, p. 465).

Method of Appointment.—The members hold office in part by ex-officio right, in part by hereditary status, and in part by special Imperial appointment. (Law of December 21, 1867; see Dodd, *Modern Constitutions*, vol. 1, p. 75.) The various elements, with their respective numbers in 1910 (from Ogg, p. 465), are as follows—

- (1) Princes of the Imperial family who are of age, 15. (Sec. 2);
- (2) Nobles of high rank qualified by the possession of large estates and nominated to an hereditary seat by the Emperor, 74. (Sec. 3);
- (3) Ecclesiastics of princely title inherent in their episcopal seats, 10 archbishops and 8 bishops. (Sec. 4); and

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(4) Persons nominated by the Emperor for life in recognition of special service rendered to the State or Church or unusual distinction attained in literature or science, 159. (Sec. 5.)

By the law of January 26, 1907, the number of members in the last-mentioned group may not exceed 170 nor be less than 150. Within these limits the power of the Emperor to create life peers is absolute. The prerogative has been used several times to facilitate the passage of measures the Government was bent on. (Ogg, p. 466.)

The privileges and powers of the Herrenhaus are co-ordinate with those of the Abgeordnetenhaus, save that Money Bills and Bills fixing the number of military recruits must be presented first in the Lower Chamber. (Ogg, p. 465.)

HUNGARY.

Number.—The Table of Magnates (Főrendiház) is variable in number. At the session of 1910-11 it had 387 members. (Ogg, *The Governments of Europe*, p. 492.)

Method of Appointment.—The membership is exceedingly complex, resting on the various principles of hereditary right, ex-officio qualification, royal nomination, and election. It is essentially a perpetuation of the ancient Table of Magnates which in the 16th century began to sit separately as an aristocratic body. Law VII of 1885, altering the organization of the Table of Magnates (see Dodd, *Modern Constitutions*, vol. 1, pp. 100-104), embodies with slight modifications the traditional composition of the Chamber. (Ogg, p. 492.) Under this law the members (with their respective numbers in 1910-11 as given by Ogg) are those who sit by virtue:

(1) Of hereditary right; archdukes of the royal family of full age, 16; and male members of the Hungarian nobility of 24 years of age with property qualification, that is, paying a land tax of 6,000 crowns annually, 236 (secs. 1, 2);

(2) Of their rank or office; curators of the Crown, standard bearers of the Kingdom, 15; presidents of the Supreme Court, 2; dignitaries of the Roman Catholic and Oriental Greek Churches, 42; representatives of the Protestant Churches, 13 (secs. 1, 4);

(3) Of their appointment for life by the King, made on the proposal of the Council of Ministers in recognition of merit, 60. The number appointed for life hereafter is not to exceed 30 (secs. 1, 5);

(4) Of election by the Diet of Croatia-Slavonia, 3 (sec. 1).

Hungary has what amounts to the parliamentary system, with responsible government. Its constitution like the English is embodied in a maze of ancient statutes and customs and is the distinctive creation of a people possessed of a rare genius for politics and government.

In practice the Upper House is distinctly subordinate to the Lower, to which alone the Ministers are responsible. Any member may acquire by due process of election a seat in the Lower Chamber and the privilege is one of which many peers are not reluctant to avail themselves. Upon election to the Lower House a peer's right to sit in the Upper Chamber is of course suspended, but when the term of service in the popular branch has expired the prior rank is revived automatically. (Ogg, 489-493.)

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ITALY.

(References are to the constitution, or *statuto fondamentale del Regno*, granted March 4, 1848, by King Charles Albert to his Piedmontese subjects and continued through the Italian union and down to the present without change; Dodd, *Modern Constitutions*; Ogg, *The Governments of Europe*.)

Number.—There is no limit to the number of members who may be appointed to the Senate (*Senato*). In 1910 there were 383.

Term of Office.—The term is for life. (Const., art. 33.)

Method of Appointment; Qualification.—Senators are appointed by the King. He is restricted by the necessity of taking all appointees from twenty-one stipulated classes of citizens, which may be reduced broadly to three

- (1) High officials of Church and State;
- (2) Persons of fame in science or literature, or who by any kind of services or merit have brought distinction to the country; and
- (3) Persons who for at least three years have paid direct property or business taxes to the amount of \$600.

Adjustment of Disagreements between the Houses.—There is no provision for the settlement of disputes between the Chambers. But, as seen, there is no limitation on the number who may be appointed to the Senate, and it said that on several occasions the prerogative of appointment has been exercised for the specific purpose of influencing the political complexion of the upper chamber. (Ogg, p. 369.)

The same writer observes that Italy has the Parliamentary system—perhaps nearer to the English than any other European country.

Proposed Reform of the Senate.—A commission appointed to study reform of the Senate reported in 1910. It proposed a carefully-considered scheme for the popularizing and strengthening of the senatorial body. The substance of the plan was in brief:—

- (1) That the chamber should henceforth be composed of 350 members;
- (2) That the membership should be divided into three categories, designated respectively as officials, men of science and education, and men of political or economic status; and
- (3) That members of the first category, not to exceed 120, should be appointed, as are all members at present, by the Crown; but members of the other two should be elected by fifteen special colleges so constituted that their membership would represent actual and varied groups of interests throughout the nation. The professors of the universities, for example, organized for the purpose as an electoral college, should be authorized to choose a contingent of thirty representatives. Other elements to be admitted to a definite participation in the elections should include former deputies, large taxpayers, provincial and communal assemblies, chambers of commerce, agricultural societies and workingmen's associations. The primary idea of those who proposed the scheme was that through its adoption there would be established a vital contact between the Senate and the varied forces that contribute to the life of the nation.

The Senate voted not to approve the commission's report. It is said to be not improbable, however, that some such plan of modernization as was prepared by the Commission of 1910 eventually will be reached. (Ogg, pp. 373-4.)

NORWAY.

(References are to the Eidsvold Constitution of Nov. 4, 1814, which may be found in Dodd, *Modern Constitutions*, vol. 2, p. 123; and to Ogg, *the Governments of Europe*.)

Number.—The Lagthing, or Upper House, consists of one-fourth of the total number of members elected to the Storthing (*i.e.*, Parliament as a whole). The whole number is 123; the number of the Lagthing therefore 31. (Const., art. 73; Ogg, p. 581.)

Method of Election.—Members are chosen simply to the Storthing, or Parliament, as a whole. There are forty-one urban and eighty-two rural districts and each district returns one member. (Art. 57-59.) At its first regular session following a general election the Storthing divides itself into two chambers. A fourth of its membership is selected by the Storthing to constitute the Lagthing (the remaining three-fourths compromise the Odelsting). This division holds until the succeeding election. (Const., art. 73; Ogg, p. 581-3.)

Elections to the Storthing are direct. Each political unit having a municipal government of its own comprises a voting precinct. If at the first ballot no candidate in the district receives a majority of all the votes cast, a second ballot is taken, when a simple plurality is decisive. (Art. 59; Ogg, 582.)

Term of Office.—Elections take place every third year. (Art. 54.)

Qualifications.—A representative must be 30 years old, a resident within the kingdom for ten years, and, unless he has been a Minister or Councillor of State, a qualified voter in the election district for which he is chosen. (Art. 61.)

Qualifications of Electors.—There is universal manhood suffrage and a large measure of female suffrage. (Art. 50; Ogg, p. 581.)

Adjustment of Disagreements between the Houses.—The structure of this legislature, comprising essentially a single body, which, however, for purely legislative purposes is divided into two chambers or sections, is unique and it represents a curious cross between the principles of unicameral and bicameral organization. All Bills are presented first in the Odelsting. Only in the event that a measure passes the Odelsting is it presented at all in the Lagthing, the sole function of the latter being to act as a check upon the larger chamber. The Lagthing may either approve or reject but may not amend Bills. A measure rejected is returned with reasons for rejection. Three courses are then open to the Odelsting: to drop the measure, to submit it in amended form, or to re-submit it unchanged. When a Bill has been twice presented to the Lagthing and twice rejected the two chambers are convened in joint session and in this consolidated body proposals are carried by a two-thirds vote.

Norway has the parliamentary system.

SWEDEN.

Number.—The Upper House of the Riksdag consists of 150 members. (Ogg, p. 59; Dodd, vol. 2, p. 232.)

Method of Election.—The members are chosen by ballot after the principle of proportional representation, by the twenty-five Landstings or provincial assemblies, and by the corporations of five of the largest towns. These electoral bodies are arranged in six groups, in one of which an election takes place in September of every year. Their own election to office is direct, and on the proportional system. (Ogg, p. 591-592; Dodd, vol. 2, p. 232.)

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Term of Office.—The term is six years, part of the Chamber being elected every year as shown above. (Ogg, p. 591.)

Qualifications.—A member must be of Swedish birth, 35 years old, and during the three years prior to his election must have owned taxable property valued at 50,000 kroner or paid taxes on an annual income of at least 3,000 kroner.

Adjustment of Disagreements between the Houses.—Both Houses have an equal competence in legislation and finance, but financial disputes are submitted to a common vote of both Houses sitting together, and in this joint sitting the 230 members of the Lower Chamber have the majority.

It is said that the responsibility of ministers lies so much more directly to the King than to the legislature that what is commonly understood as the parliamentary system can hardly be said to exist in Sweden. (Ogg, p. 591.)

THE SECOND CHAMBER PROBLEM IN GENERAL.

A more exhaustive survey of the constitution and practice of Second Chambers than is within the scope of this paper may be had by reference to the appended bibliography. This list of authorities will be found also to comprehend the best critical consideration of the general Second Chamber problem, showing the operation of the various systems and in what respects defects and difficulties have made themselves manifest.

“The most striking general fact,” one observer says, “is that practically everywhere there is a recognized Second Chamber problem, and nowhere has that problem been solved. Everywhere there is dissatisfaction and irritation, a feeling that the secret of combining constitutional stability with legislative efficiency has not yet been discovered. A large number of experiments have been and are being tried, but the most that can be said for the best of them is that they give a little less general dissatisfaction than the rest.” But to undertake to state the defects and difficulties that have manifested themselves is in reality to go about an inquiry into what constitutes the ideal Second Chamber. This is to enter a field that is peculiarly one of opinion, and one moreover in which political temper and theories of the social union play a large part. Nor is opinion on the subject susceptible of statement or summarization in general, universal propositions; for each system, for each country, the question is conditioned by its own setting of tradition, of habit, of political thinking and so on. For these reasons it would seem of extremely doubtful value to attempt to recapitulate here what has been written on the subject. Reference is therefore made to the following works as affording opportunity for an independent and thorough survey of the question:—

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